

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH A. CASTRO,

Plaintiff,

v.

RALPH DIAZ, et al.,

Defendants.

No. 2:20-cv-1259 WBS AC P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, seeks relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 17, 2021, the court screened the complaint and gave plaintiff the options of proceeding on cognizable claims only or amending his complaint. ECF No. 6. On December 27, 2021, plaintiff notified the court that he wishes to proceed solely on his Eighth Amendment claims against Defendant Officer Barney and the current warden of Mule Creek State Prison. ECF No. 9. Plaintiff acknowledges that this decision constitutes a voluntarily dismissal

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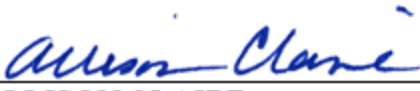
without prejudice of defendants Jenkins,¹ K. Prather, M. Williams, B. Stacy, R. Diaz and Does 1-100. Id.

Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall:

1. Construe Plaintiff's Notice on How to Proceed (ECF No. 9) as a VOLUNTARY DISMISSAL of Defendants K. Prather, M. Williams, B. Stacy, and R. Diaz pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), and

2. Update the docket accordingly.

DATED: January 27, 2022


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

¹ Although Officer Jenkins is identified as a defendant on the Notice on How to Proceed (see ECF No. 9), and s/he is identified in the complaint as an officer who failed to act (see ECF No. 1 at 3), s/he was not named as a defendant in this action. See ECF No. 1 at 1-2. Because the Court has found that Plaintiff did not state a cognizable cause of action against Officer Jenkins (see ECF No. 6 at 4-5), his/her name need not be added to the case caption of the docket.